

111TH CONGRESS  
1ST SESSION

# H. R. 2636

To amend title 10, United States Code, to authorize the establishment of a nonprofit corporation to support the athletic program of the Air Force Academy.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 21, 2009

Ms. LORETTA SANCHEZ of California (for herself and Ms. TSONGAS) introduced the following bill; which was referred to the Committee on Armed Services

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## A BILL

To amend title 10, United States Code, to authorize the establishment of a nonprofit corporation to support the athletic program of the Air Force Academy.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. AIR FORCE ACADEMY ATHLETIC ASSOCIATION.**

4       (a) IN GENERAL.—Chapter 903 of title 10, United  
5       States Code, is amended by inserting after section 9359  
6       the following new section:

1 **“§ 9359a. Air Force Academy Athletic Association: au-**  
2 **thorization, purpose, and governance**

3 “(a) ESTABLISHMENT AUTHORIZED.—The Secretary  
4 of the Air Force may establish a nonprofit corporation,  
5 to be known as the ‘Air Force Academy Athletic Associa-  
6 tion’, to support the athletic program of the Air Force  
7 Academy.

8 “(b) ORGANIZATION AND DUTIES.—(1) The Air  
9 Force Academy Athletic Association (in this section re-  
10 ferred to as the ‘Association’) shall be organized and oper-  
11 ated as a nonprofit corporation under section 501(c)(3)  
12 of the Internal Revenue Code of 1986 and under the pow-  
13 ers and authorities set forth in this section and the provi-  
14 sions of the laws of the State of incorporation. The Asso-  
15 ciation shall operate on a nonpartisan basis exclusively for  
16 charitable, educational, and civic purposes consistent with  
17 the authorities referred to in this subsection to support  
18 the athletic program of the Academy.

19 “(2) Subject to the approval of the Secretary of the  
20 Air Force, the Association may—

21 “(A) operate and manage athletic and revenue  
22 generating facilities on Academy property;

23 “(B) use Government facilities, utilities, and  
24 services on the Academy, without charge, in support  
25 of its mission;

1           “(C) sell products to the general public on or  
2           off Government property;

3           “(D) charge market-based fees for admission to  
4           Association events and other athletic or athletic-re-  
5           lated events at the Academy and for use of Academy  
6           athletic facilities and property; and

7           “(E) engage in other activities, consistent with  
8           the Academy athletic mission as determined by the  
9           Board of Directors.

10          “(c) BOARD OF DIRECTORS.—(1) The Association  
11       shall be governed by a Board of Directors made up of at  
12       least nine members. The members, other than the member  
13       referred to in paragraph (2), shall serve without com-  
14       pensation, except for reasonable travel and other related  
15       expenses for attendance at required meetings.

16          “(2) The Director of Athletics at the Academy shall  
17       be a standing member of the Board as part of the Direc-  
18       tor’s duties as the Director of Athletics.

19          “(3) Subject to the prior approval of all nominees for  
20       appointment by the Secretary of the Air Force, the Super-  
21       intendent shall appoint the remaining members of the  
22       Board.

23          “(4) The Secretary of the Air Force shall select one  
24       of the members of the Board appointed under paragraph  
25       (3) to serve as chairperson of the Board.

1       “(d) BYLAWS.—Not later than July 1, 2010, the As-  
2 sociation shall propose its by-laws. The Association shall  
3 submit the by-laws, and all future changes to the by-laws,  
4 to the Secretary of the Air Force for review and approval.  
5 The by-laws shall be made available to Congress for re-  
6 view.

7       “(e) TRANSITION FROM NONAPPROPRIATED FUND  
8 OPERATION.—(1) Until September 30, 2011, the Sec-  
9 retary of the Air Force may provide for parallel operations  
10 of the Association and the Air Force nonappropriated fund  
11 instrumentality whose functions include providing support  
12 for the athletic program of the Academy. Not later than  
13 that date, the Secretary shall dissolve the nonappropriated  
14 fund instrumentality and transfer its assets and liabilities  
15 to the Association.

16       “(2) The Secretary may transfer title and ownership  
17 to all the assets and liabilities of the nonappropriated fund  
18 instrumentality referred to in paragraph (1), including  
19 bank accounts and financial reserves in its accounts,  
20 equipment, supplies, and other personal property without  
21 cost or obligation to the Association.

22       “(f) CONTRACTING AUTHORITIES.—(1) The Super-  
23 intendent may procure goods, services, human resources,  
24 and other support, on a noncompetitive basis and at fair  
25 and reasonable prices, from the Association in support of

1 this section. Any such procurement shall be exempt from  
2 Federal procurement and Federal procurement-preference  
3 laws, rules, regulations, processes and procedures.

4 “(2) The Superintendent may accept from the Asso-  
5 ciation funds, goods, and services for use by cadets and  
6 Academy personnel during participation in, or in support  
7 of, Academy or Association contests, events, and pro-  
8 grams.

9 “(g) USE OF AIR FORCE PERSONNEL.—Air Force  
10 personnel may participate in—

11 “(1) the management, operation, and oversight  
12 of the Association;

13 “(2) events and athletic contests sponsored by  
14 the Association; and

15 “(3) management and sport committees for the  
16 National Collegiate Athletic Association and other  
17 athletic conferences and associations.

18 “(h) FUNDING AUTHORITY.—The authorization of  
19 appropriations for the operation and maintenance of the  
20 Academy includes Association operations in support of the  
21 Academy athletic program, as approved by the Secretary  
22 of the Air Force.

23 “(i) FEDERAL TORT CLAIMS ACT.—The Association  
24 is deemed to be a Federal entity for purposes of chapter  
25 171 of title 28, relating to tort claims. Members of the

1 Board of Directors, Association employees, and Air Force  
2 personnel participating in the management, operation, and  
3 oversight of the Association are entitled to the protections  
4 of such chapter and are entitled to qualified immunity  
5 from liability for actions taken in the scope of their par-  
6 ticipation as members of the Board of Directors or partici-  
7 pation or employment as members of the Air Force and  
8 Association.”.

9 (b) CLERICAL AMENDMENT.—The table of sections  
10 at the beginning of such chapter is amended by inserting  
11 after the item relating to section 9359 the following new  
12 item:

“9359a. Air Force Academy Athletic Association: authorization, purpose, and  
governance.”.

